

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

DUANE MCATEE,
Plaintiff,

v.

**Civil Action No. 1:13cv162
(Judge Keeley)**

JEFF JAMES,
Defendant.

REPORT AND RECOMMENDATION/OPINION

Duane McAtee, *pro se*, initiated this case on June 27, 2013, by filing a Complaint against the Defendant, Jeff James [Dckt. 1]. The Clerk provided Plaintiff with a “Notice of General Guidelines for Appearing Pro Se in Federal Court” on June 28, 2013 [Dckt. 2]. Because the plaintiff had not paid the required filing fee or filed a request to proceed as a pauper and had not provided the complete name and address of the defendant, the Clerk also issued a Deficiency Notice advising the petitioner to do so within 21 days of the date of the Order (June 28, 2013) [Dckt. 3]. The Notice expressly advised:

If the Plaintiff/Petitioner fails to file the items indicated by “X” within 21 days from the date of this notice, the court will dismiss this case for failure to prosecute. Fed. R. Civ. P. 41(b).

The docket indicates Plaintiff accepted service of both Notices on July 5, 2013 [Dckt. 5]. This matter was referred to the undersigned United States Magistrate Judge on July 2, 2013 [Dckt. 4].

As of the date of this Order, December 10, 2013, the Court has received no further documents or any payment from the plaintiff. Accordingly, the undersigned recommends his case be dismissed for failure to prosecute.

RECOMMENDATION

For all the above reasons, the undersigned United States Magistrate Judge **RECOMMENDS** this action be dismissed and stricken from the docket of the Court.

Any party may, within fourteen (14) days after being served with a copy of this Report and

Recommendation, file with the Clerk of the Court written objections identifying the portions of the Report and Recommendation to which objection is made, and the basis for such objection. A copy of such objections should be submitted to the Honorable Irene M. Keeley, United States District Judge. Failure to timely file objections to the Report and Recommendation set forth above will result in waiver of the right to appeal from a judgment of this Court based upon such Report and Recommendation. 28 U.S.C. § 636(b)(1); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); Thomas v. Arn, 474 U.S. 140 (1985).

The Clerk of the Court is directed to send a copy of this Report and Recommendation to counsel of record and to Plaintiff pro se by Certified United States Mail.

Respectfully submitted this 11th day of December, 2013.

John S. Kaull

JOHN S. KAULL
UNITED STATES MAGISTRATE JUDGE